

**§ 604.3 Definitions.**

All terms defined in 49 U.S.C. 5301 *et seq.* are used in their statutory meaning in this part. Other terms used in this part are defined as follows:

(a) “*Federal Transit Laws*” means 49 U.S.C. 5301 *et seq.*, and includes 23 U.S.C. 103(e)(4), 142(a), and 142(c), when used to provide assistance to public transit agencies for purchasing buses and vans.

(b) “*Administrator*” means the Administrator of the Federal Transit Administration or his or her designee.

(c) “*Charter service*” means, but does not include demand response service to individuals:

(1) Transportation provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristic of charter service:

(i) A third party pays the transit provider a negotiated price for the group;

(ii) Any fares charged to individual members of the group are collected by a third party;

(iii) The service is not part of the transit provider’s regularly scheduled service, or is offered for a limited period of time; or

(iv) A third party determines the origin and destination of the trip as well as scheduling; or

(2) Transportation provided by a recipient to the public for events or functions that occur on an irregular basis or for a limited duration and:

(i) A premium fare is charged that is greater than the usual or customary fixed route fare; or

(ii) The service is paid for in whole or in part by a third party.

(d) “*Charter service hours*” means total hours operated by buses or vans while in charter service including:

(1) Hours operated while carrying passengers for hire, plus

(2) Associated deadhead hours.

(e) “*Chief Counsel*” means the Chief Counsel of FTA and his or her designated employees.

(f) “*Days*” means calendar days. The last day of a time period is included in the computation of time unless the last day is a Saturday, Sunday, or legal holiday, in which case, the time period runs until the end of the next day that

is not a Saturday, Sunday, or legal holiday.

(g) “*Demand response*” means any non-fixed route system of transporting individuals that requires advanced scheduling by the customer, including services provided by public entities, nonprofits, and private providers.

(h) “*Exclusive*” means service that a reasonable person would conclude is intended to exclude members of the public.

(i) “*FTA*” means the Federal Transit Administration.

(j) “*Geographic service area*” means the entire area in which a recipient is authorized to provide public transportation service under appropriate local, state, and Federal law.

(k) “*Government official*” means an individual elected or appointed at the local, state, or Federal level.

(l) “*Interested party*” means an individual, partnership, corporation, association, or other organization that has a financial interest that is affected by the actions of a recipient providing charter service under the Federal Transit Laws. This term includes states, counties, cities, and their subdivisions, and tribal nations.

(m) “*Pattern of violations*” means more than one finding of unauthorized charter service under this part by FTA beginning with the most recent finding of unauthorized charter service and looking back over a period not to exceed 72 months.

(n) “*Presiding Official*” means an official or agency representative who conducts a hearing at the request of the Chief Counsel and who has had no previous contact with the parties concerning the issue in the proceeding.

(o) “*Program purposes*” means transportation that serves the needs of either human service agencies or targeted populations (elderly, individuals with disabilities, and or low income individuals); this does not include exclusive service for other groups formed for purposes unrelated to the special needs of the targeted populations identified herein.

(p) “*Public transportation*” has the meaning set forth in 49 U.S.C. 5302(a)(10).

(q) “*Qualified human service organization*” means an organization that

#### § 604.4

serves persons who qualify for human service or transportation-related programs or services due to disability, income, or advanced age. This term is used consistent with the President's Executive Order on Human Service Transportation Coordination (February 24, 2004).

(r) "*Recipient*" means an agency or entity that receives Federal financial assistance, either directly or indirectly, including subrecipients, under the Federal Transit Laws. This term does not include third-party contractors who use non-FTA funded vehicles.

(s) "*Registered charter provider*" means a private charter operator that wants to receive notice of charter service requests directed to recipients and has registered on FTA's charter registration Web site.

(t) "*Registration list*" means the current list of registered charter providers and qualified human service organizations maintained on FTA's charter registration Web site.

(u) "*Special transportation*" means demand response or paratransit service that is regular and continuous and is a type of "public transportation."

(v) "*Violation*" means a finding by FTA of a failure to comply with one of the requirements of this Part.

#### § 604.4 Charter service agreement.

(a) A recipient seeking Federal assistance under the Federal Transit Laws to acquire or operate any public transportation equipment or facilities shall enter into a "Charter Service Agreement" as set out in paragraph (b) of this section.

(b) A recipient shall enter into a Charter Service Agreement if it receives Federal funds for equipment or facilities under the Federal Transit Laws. The terms of the Charter Service Agreement are as follows: "The recipient agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR 604, the terms and conditions of which are incorporated herein by reference."

#### 49 CFR Ch. VI (10–1–11 Edition)

(c) The Charter Service Agreement is contained in the Certifications and Assurances published annually by FTA for applicants for Federal financial assistance. Once a recipient receives Federal funds, the Certifications and Assurances become part of its Grant Agreement or Cooperative Agreement for Federal financial assistance.

### Subpart B—Exceptions

#### § 604.5 Purpose.

The purpose of this subpart is to identify the limited exceptions under which recipients may provide community-based charter services.

#### § 604.6 Government officials on official government business.

(a) A recipient may provide charter service to government officials (Federal, State, and local) for official government business, which can include non-transit related purposes, if the recipient:

(1) Provides the service in its geographic service area;

(2) Does not generate revenue from the charter service, except as required by law; and

(3) After providing such service, records the following:

(i) The government organization's name, address, phone number, and e-mail address;

(ii) The date and time of service;

(iii) The number of passengers (specifically noting the number of government officials on the trip);

(iv) The origin, destination, and trip length (miles and hours);

(v) The fee collected, if any; and

(vi) The vehicle number for the vehicle used to provide the service.

(b) A recipient that provides charter service under this section shall be limited annually to 80 charter service hours for providing trips to government officials for official government business.

(c) A recipient may petition the Administrator for additional charter service hours only if the petition contains the following information:

(1) Date and description of the official government event and the number of charter service hours requested;